


FLORIDA HIGHWAY PATROL

POLICY MANUAL

	SUBJECT DEALING WITH FOREIGN NATIONALS	POLICY NUMBER 11.06
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11.06.01 PURPOSE

To provide members with guidelines in cases of the arrest, detention or death of foreign national.

11.06.02 AUTHORITY

The Vienna Convention on Consular Relations (VCCR).

[U.S. Department of State publication 10969, Consular Notification and Access: Instruction for Federal, State, and Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them.](#)

11.06.03 POLICY

It is the policy of the Florida Highway Patrol to comply with the provisions of the Vienna Convention on Consular Relations in dealing with foreign nationals that have been arrested or detained.

11.06.04 DEFINITIONS

- A. **CONSULAR OFFICER** – A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens of a foreign country. Also may be referred to as "consul."
- C. **DETAINEE** – a person held in the custody of or whose freedom of movement is at the will of members of the Patrol. Detainees may otherwise be referred to as "suspect," "arrestee," "prisoner," "inmate," "held for mental observation," or other similar terms. The U.S. Department of State does not consider a traffic stop or crash investigation to constitute detention.
- B. **FOREIGN NATIONAL** – Any person not a U.S. citizen, including undocumented or illegal aliens.

11.06.05 OBJECTIVES

To ensure that the provisions of the Vienna Convention on Consular Relations (VCCR) related to cases involving the arrest, detention, or death of a foreign national as well as their handling in the issuance of citations and crash investigations are followed.

11.06.06 PROCEDURES

A. ARRESTED OR DETAINED FOREIGN NATIONALS

1. Anytime an arrestee/detainee appears to be a foreign national the arresting or detaining member shall attempt to determine the person's nationality. Absent direct information from the person, passports or other travel documents may provide the person's nationality.
2. The Mandatory Notification List should be consulted to determine whether we are required to notify the local Consulate.
 - a. If the foreign national's country is not on the mandatory notification list:
 - (1) Offer, without delay, to notify the foreign national's consular officers of the arrest/detention.
 - (2) If the foreign national requests that consular notification be given, notify the Regional Communications Center and/or the on-duty supervisor.
 - (3) If the foreign national requests that consular notification not be given, document the date and time that notification was offered and refused in the UCR report.
 - b. If the foreign national's country is on the mandatory notification list:
 - (1) Notify the Regional Communications Center and/or the on-duty supervisor.
 - (2) Notify the foreign national that we are notifying the local Consulate of the arrest/detention.
3. If notification is to be made, the Regional Communications Center shall complete the Notifying Consular Officers of Arrests or Detentions form (HSMV 61024).
 - a. The completed form is to be faxed to the appropriate Consulate as soon as possible.
 - b. The original of the form along with the fax confirmation shall be maintained at the Regional Communications Center.

- c. A copy of the form and fax confirmation shall be forwarded to the arresting/detaining member for inclusion in the case file.
- 4. Consular officials shall not be unreasonably refused access, in person or by telephone, to any foreign national that has been arrested or detained and still in custody of an FHP member.
- 5. Upon delivery of a foreign national to a county jail, the jail personnel shall be notified of the arrestee's foreign national status and whether notification has been made to the appropriate Consulate.

B. CASES INVOLVING THE DEATH OF A FOREIGN NATIONAL

- 1. Anytime a member investigates the death of a foreign national, the member shall notify the appropriate Consulate of the death.
- 2. Documentation of the notification shall be maintained in the case file.

C. CITATIONS AND TRAFFIC CRASH INVESTIGATIONS

The Vienna Convention on Consular Relations on its face requires informing a foreign national that a consular official may be notified whenever a foreign national is arrested or detained in any manner, without distinguishing arrests that do not result in a significant detention. The purpose of this requirement, however, is to ensure that a government does not place a foreign national in a situation in which he/she cannot receive assistance from his/her own government.

When a foreign national is issued a citation and immediately released, this consideration is not relevant because they are free to contact consular officials independently. Therefore, brief routine detentions, such as for issuing a citation for traffic violations or crash investigations, are allowed without the need for consular notification.

Further inquiries and reports concerning foreign nationals should be directed to the Assistant Legal Advisor for Consular Affairs, telephone number (202) 647-4415. After hours inquiries should be directed to the State Department Operations Center, telephone number (202) 663-0812.

AGREEMENTS RELATING TO FOREIGN NATIONALS

Countries listed below have specific agreements with the United States Department of State requiring consular notification regardless of the arrestee's wishes.

Algeria	Guyana	St. Vincent & Grenadines
Antigua and Barbuda	Hong Kong (see special notes 2)	Seychelles
Armenia	Hungary	Sierra Leone
Azerbaijan	Jamaica	Singapore
Bahamas, The	Kazakhstan	Slovakia
Barbados	Kiribati	Tajikistan
Belarus	Kuwait	Tanzania
Belize	Kyrgyzstan	Tonga
Brunei	Malaysia	Trinidad & Tobago
Bulgaria	Malta	Tunisia
China (see special notes 1)	Mauritius	Turkmenistan
Costa Rica	Moldova	Tuvalu
Cyprus	Mongolia	Ukraine
Czech Republic	Nigeria	United Kingdom (see special notes 3)
Dominica	Philippines	USSR (see special notes 4)
Fiji	Poland (non-permanent residents only)	Uzbekistan
Gambia, The	Romania	Zambia
Georgia	Russia	Zimbabwe
Ghana	St. Kitts & Nevis	
Grenada	St. Lucia	

1. Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"), the unofficial entity representing Taiwan's interests in the United States, can be notified at their request.

2. Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or SAR. Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports – i.e., immediately, and in any event within four days of the arrest or detention.

3. British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat and the Turks and Caicos Islands. Their residents carry British passports.

4. Although the USSR no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old USSR passports. The successor states are listed separately above.

Inquiries concerning the foregoing should be addressed to the Assistant Legal Advisor for Consular Affairs, Department of State, Washington, D.C., 20520, telephone number (202) 647-4415. After normal business hours, telephone inquiries should be made to the Command Center of the Bureau of Diplomatic Security, Department of State, telephone number (202) 647-7277. Additional information is available at the following website: oir.dos.state.fl.us/arrest/index.html